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SUBJECT: AT LAST, A BIRTH REGISTRATION SYSTEM FOR
NON-DOMINICANS

REF: A. 06 SANTO DOMINGO 3282

- [1](#)B. SANTO DOMINGO 0335
- [1](#)C. 2006 DOMINICAN REPUBLIC HUMAN RIGHTS REPORT
- [1](#)D. SANTO DOMINGO 0444
- [1](#)E. 06 SANTO DOMINGO 3759
- [1](#)F. SANTO DOMINGO 0013
- [1](#)G. 06 SANTO DOMINGO 3521

[1](#)1. (SBU) SUMMARY: The Dominican civil registry and elections authority has responded somewhat belatedly to complaints from the U.S. Embassy and others by voting to create a procedure to register the Dominican-born children of foreigners who are not legal Dominican residents. Such children, including American citizens, will soon be legally able to obtain official birth certificates for the first time since 2004. The registration process is called the "libro de extranjeria" (registry of foreigners). It will be separate from the procedure for registering the birth of Dominican nationals and is intended not to confer an automatic entitlement to Dominican citizenship. There are some indications that children registered under this procedure may be granted the right to opt for Dominican citizenship upon turning 18 years of age. Despite various shortcomings, the new procedure may well offer significant benefits, both to U.S. citizens and to the many thousands of functionally stateless persons of Haitian descent who reside in the Dominican Republic. END SUMMARY.

THE HAITIAN-DOMINICANS

[1](#)2. (U) Throughout the twentieth century the Dominican sugar industry relied on the cheap labor provided by workers brought in from Haiti and housed near sugar plantations in settlements known as "bateyes." Many did not return to Haiti. Over time the "bateyes" became permanent villages where Haitian nationals gave birth to children who learned to speak Spanish better than Creole. This arrangement fostered the creation a sizeable ethnic minority.

[1](#)3. (U) Dominicans have long resented the presence of large numbers of Haitians within their country; relations between the two groups are colored by racism and a history of hostility. This is perhaps all the more true due to the fact that the Dominican population is predominantly of mixed race.

[1](#)4. (U) The first Fernandez government privatized government-owned sugar mills in the late 1990,s and within a short time the related sections of the sugar industry went bankrupt. Populations on associated "bateyes" were further

impoverished. High unemployment there and continuing instability in Haiti have prompted large numbers of Haitian nationals and persons of Haitian descent into Dominican cities to seek employment. Many Dominicans have reacted with hostility.

NEW LAW ON MIGRATION BANS THE REGISTRATION OF FOREIGNERS

15. (U) The Dominican constitution grants citizenship to all children born on Dominican soil, except for the children of diplomats and the children of persons who are "in transit" (not further defined). Despite this guarantee, for years civil registrars have refused to document children born to Haitians or to persons considered to be Haitians. In 2004 the Dominican Congress enshrined this exclusion in law by modifying provisions of its immigration law so to exclude from eligibility for Dominican citizenship the children of foreigners without legal residency. This law affected all foreigners, but it targeted Haitians; civil registrars typically make exceptions for other nationalities. The Dominican Supreme Court upheld the law's constitutionality in 2005.

16. (U) The 2004 law contained provisions for a separate birth registration process for children not eligible for Dominican citizenship, but the executive took no action on draft implementing regulations. As a result, all children born to mothers who were not legal residents in the country also became legally unable to obtain official certification of birth.

17. (SBU) The denial of documentation has created a large community of Dominican-born persons of Haitian descent who are unable to obtain either Dominican or Haitian identity

documents. This includes not only those individuals born since the 2004 law and the 2005 Supreme Court decision, but the vast numbers of adults who never had never obtained papers before those dates. Tens of thousands) perhaps hundreds of thousands -- are functionally stateless. Their access to Dominican society -- for example, to public schooling or to formal sector employment -- is severely limited by their lack of documentation. Once these persons come of age and have children of their own, the same difficulties of registration occur, thus perpetuating the vicious cycle of poverty. This community is particularly vulnerable to exploitation via trafficking, child labor, prostitution, and crime. See Refs A, B, C and D for more on the unique problems faced by the community of Haitian descent in the Dominican Republic.

18. (SBU) The lack of a legal birth registration procedure for foreigners who lack legal residency affects U.S. citizens too. However, in practice U.S. citizens are usually able to circumvent the restrictions. Civil registrars generally make exceptions for non-Haitians; rules are not uniformly applied at the numerous local civil registry offices; consular intervention is usually enough to facilitate issuances in cases where U.S. citizens encounter problems. But these issuances are not technically legal under the 2004 Law, a fact that has long troubled the Embassy's consular section. Consular representatives have on several occasions raised with JCE officials their concerns over the lack of a legal registration process for foreigners.

ADVOCACY FROM DIPLOMATIC QUARTERS

19. (U) In late 2006, the issue escalated. The U.S. Ambassador publicly stepped into the middle of the debate in November when he advocated birth certificates for children born to non-citizens in a speech covered extensively in the Dominican press. In December a U.S. congressional delegation aroused controversy by visiting two bateyes and commenting on the

lack of documentation facing many batey residents (Ref E).

¶10. (SBU) The Embassy's position was soon mischaracterized as public advocacy in favor of Dominican citizenship for Haitians. Dominicans, including some cabinet-level officials, tend to confuse comments on the administrative problems of documentation with the extremely sensitive issue of nationality. As in the United States and other "jus soli" countries, in the Dominican Republic the birth certificate is the basis for the claim to citizenship. Few Dominicans understand that it is possible to issue birth certificates that do not transmit citizenship (or that the law already envisions such a procedure). Likewise, most Dominicans do not realize that the lack of a birth registration procedure for foreigners affects nationalities other than Haitians or that U.S. citizens are disadvantaged.

¶11. (SBU) Dominicans tend to react with hostility and suspicion to comments considered to constitute interventions in the country's sensitive "Haitian issue." Foreign Minister Carlos Morales Troncoso denounced the Ambassador's proposal to the press (Ref F), and newspapers dutifully published his remarks alongside protests of their own. Despite the conflicts arising from these sensitivities, U.S. Embassy officials and other diplomats, notably the Papal Nuncio (acting from within his capacity as Dean of the Diplomatic Corps), continued to raise the issue in private and in public.

CREATION OF THE "LIBRO DE EXTRANJERIA"

¶12. (U) In December 2006, Dr. John Guilliani, one of the new justices of the Governing Board of the Junta Central Electoral (JCE, the Dominican Civil Registry Office), proposed the creation by the JCE of a mechanism known as the "foreigners, book" ("libro de extranjeria") through which the children of non-citizens could be registered without acknowledging any entitlement to Dominican citizenship. The JCE voted to implement the proposal and a study group immediately began meeting to devise implementation procedures.

¶13. (SBU) Initially, the plan for a "libro de extranjeria" did not provide for the issuance of a birth certification to

the parents of a newborn child registered under the procedure. The process instead set forth a procedure whereby the JCE would notify the Foreign Ministry of the birth of a foreign child, and the Secretariat would in turn notify the Embassy or consulate corresponding to the nationality of the child's mother.

¶14. (SBU) Embassy officers, including the Ambassador, conveyed to the JCE that the procedure as then defined would not facilitate recognition of U.S. citizenship unless it involved the issuance of a document to the children's parents. After considering the matter with his colleagues, Justice Guilliani advised the Embassy that the procedure had been changed to allow for the issuance to the parents themselves of an official document certifying a child's birth -- thereby removing what could have been a further obstacle to the conduct of U.S. consular business.

¶15. (SBU) Only children born in hospitals will be eligible for registration in the "libro de extranjeria." This limitation is not likely to affect U.S. citizens, but it will affect a significant (although declining) proportion of the community of persons of Haitian descent.

ADVANTAGES OF THE "LIBRO"

¶16. (U) Prominent NGOs that advocate in favor of persons of Haitian descent have come out in opposition to the "libro." They argue that it would enshrine segregation. They have a

point. Even so, the Embassy supports the "libro" for several reasons.

¶17. (SBU) First, at a minimum children registered under the "Libro" will have an official document attesting to identity and name. This will meet the Dominican government's legal obligations under the United Nations Covenant on Civil and Political Rights and the Convention on the Rights of the Child. Both instruments mandate a birth registration process for all children, and the Dominican Republic ratified both instruments without reservations. Parents and children will be able to use these registration documents to request birth documentation from the appropriate consular sections, should they wish to do so.

¶18. (SBU) According to Guilliani, children registered under this procedure will have various rights under Dominican law that the functionally stateless do not now enjoy. The registered individuals will have the same right to attend school as does any Dominican. They will have access to public medical services. According to Guilliani's interpretation, under current law they would have the constitutional right to opt for Dominican citizenship when they turn 18 years of age. It should be noted, however, that President Fernandez is in the midst of a project of consultation on possible reforms to the Dominican constitution (Ref G) and Guilliani acknowledges there is a strong possibility that the decisions eventually made might eliminate this right.

¶19. (SBU) Looking ahead, should the Dominican government decide to change its registration policies in the future and recognize as citizens Dominican-born persons of Haitian descent, children registered under this procedure will have official documents to prove where they were born.

¶20. (SBU) JCE officials told Embassy officers that the "libro de extranjeria" will be implemented over the coming weeks. Soon they expect to notify the public of the procedure and its implementing regulations, which will be posted on the internet, in order to comply with the legally mandated ten-day public comment period. Once the ten-day period has expired, Dr. Guilliani predicts that the procedure will be implemented immediately. (NOTE: Of course, it will likely take months, at least, to train and equip all of the regional civil registry offices before they will be ready for their responsibilities under the new system. END NOTE.)

¶21. (U) This registration mechanism will not be available to persons born prior to the implementation of the new procedure. Senator Francisco Dominguez Brito has proposed legislation that would open the process to those individuals, as well.

¶22. (U) This cable was drafted by Alexander T. Bryan.

¶23. (U) This report and extensive other material can be

consulted on our SIPRNET site,
<http://www.state.sg.gov/p/wha/santodomingo/>

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